COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. NO. 3697-01
BILL NO. HB 1415
SUBJECT: Taxation and Revenue; Utilities
TYPE: Original
DATE: February 1, 2000

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
All State Funds	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)
Total Estimated Net Effect on All State Funds*	**Unknown to (Unknown)**	**Unknown to (Unknown)**	**Unknown to (Unknown)**

***Expected to be minimal since the replacement taxes are designed to be revenue neutral**

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
None			
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
Local Government*	**Unknown to (Unknown)**	**Unknown to (Unknown)**	**Unknown to (Unknown)**

***Expected to be minimal since the replacement taxes are designed to be revenue neutral**

Numbers within parentheses: ( ) indicate costs or losses

This fiscal note contains 6 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Revenue (DOR)** assume the proposed legislation would result in the need for a new system to administer this tax. The DOR assumes this would create a new tax on kilowatt hours to replace the old local sales tax on electrical energy. There would be start up costs in the DOR and several new systems required. It is assumed this system would require 6,747 overtime hours, at $25 per hour, to create, test and implement, for a cost of $168,675. In addition, there would be State Data Center costs of $29,834 to test and implement the system. DOR also assumes they would need five additional Tax Processing Technicians (5 FTE, each at $20,172 per year). Three Tax Processing Technicians would be needed to start this system that replaces the local sales tax and two Tax Processing Technicians would be needed to help administer the property tax replacement tax.

Oversight assumes that: 1) the Tax Processing Technicians needed to start the kilowatt hour tax system would not be needed after the first year because personnel handling the sales tax on electrical energy could administer the new tax; 2) the one-year employees would use existing equipment; and 3) the two permanent employees would be domiciled in existing space.

Officials from the **Department of Natural Resources (DNR)** assume that during the time period addressed by this fiscal note that the DNR would handle any increased needs with existing FTEs. DNR further assumes that any increase in air emissions, wastewater emissions and additional ash generated for disposal will continue to require appropriate permits that must consider cumulative impacts. Increases in air emissions will require additional controls for water contaminants such as SO2, NOX and mercury. Use of alternate fuels, for example landfill gases, tire-derived fuel or any other solid waste should continue to be competitively available. Siting new facilities and additional transmission lines and decommissioning of retiring facilities will require appropriate permits.

Officials from the **Office of the State Auditor (SAU)** assume the proposal would result in the need for additional staff needs for two .25 Staff Auditor I positions to perform the one-time mathematical calculation of the information submitted by counties, cities, villages and the State Tax Commission without a review of the underlying numbers. However, **Oversight** assumes any increased duties as a result of this proposal could be handled with existing staff.

Officials from the **Department of Economic Development - Office of Public Counsel (OPC), State Tax Commission (TAX), Department of Social Services (DOS)** and the **Department of Elementary and Secondary Education (DES)** assume this proposal would not fiscally impact their agencies.

ASSUMPTION (continued)

In a similar previous proposal, officials from the **City of Springfield** assumed the proposed legislation could result in a loss of revenue. The proposal does not include a provision for replacement taxes for payments in lieu of taxes for municipalities with municipally owned utilities, such as City Utilities of Springfield. Unless the bill is changed, the City of Springfield could lose as much as $485,000 per year in the initial year of retail customer choice, with possible increases in the amount each year thereafter.

In a similar previous proposal, the **Department of Economic Development - Public Service Commission (PSC)** and the **Office of the Secretary of State (SOS)** assumed the proposal would have no fiscal impact on their agencies.

Officials from the **City of St. Louis (STL)** and the **Kansas City Manager (KCM)** did not respond to our fiscal impact request.

Oversight assumes there could be a fiscal impact as a result of this proposal. It is assumed the intent is to insure that revenues are not lost as a result of out of state suppliers of energy, and that revenues collected will closely parallel tax revenue that is currently collected. However, it is likely it will not be an exact match and some fiscal impact could result.

Based on information received from various officials including the DOR and the State Tax Commission, **Oversight** has estimated the amount of replacement tax necessary to replace the current taxes that are collected. The estimate for the state sales tax would be $74 million and the estimate for the local sales tax would be $40 million; the estimate for the property tax would be $100 million; and the estimate for gross receipts tax on electricity and natural gas would be approximately $240 million, for a total replacement tax of $454 million.

FISCAL IMPACT - State Government	FY 2001 (10 Mo.)	FY 2002	FY 2003
GENERAL REVENUE FUND			
Costs - Department of Revenue (DOR)			
Personal Service (5, 2, 2 FTE)	$ 84,050	$ 41,352	$ 42,386
Fringe Benefits	25,845	12,716	13,034
Expense and Equipment	217,792	1,648	1,697
Total Costs - DOR	($327,687)	($55,716)	($57,117)
ESTIMATED NET EFFECT TO GENERAL REVENUE FUND	**($327,687)**	**($55,716)**	**($57,117)**

FISCAL IMPACT - State Government	FY 2001 (10 Mo.)	FY 2002	FY 2003
ALL STATE FUNDS			
Effects of Replacement Taxes	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)
ESTIMATED NET EFFECT ON ALL STATE FUNDS*	**Unknown to (Unknown)**	**Unknown to (Unknown)**	**Unknown to (Unknown)**

*Expected to be minimal since the purpose of the replacement taxes is to be revenue neutral.

FISCAL IMPACT - Local Government	FY 2001 (10 Mo.)	FY 2002	FY 2003
POLITICAL SUBDIVISIONS			
Effects of Replacement Taxes	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)
ESTIMATED NET EFFECT ON POLITICAL SUBDIVISIONS*	**Unknown to (Unknown)**	**Unknown to (Unknown)**	**Unknown to (Unknown)**

*Expected to be minimal since the purpose of the replacement taxes is to be revenue neutral.

FISCAL IMPACT - Small Business

This proposal could have a fiscal impact on small businesses to the extent they do not currently pay these taxes.

DESCRIPTION

This act is implementing legislation for HJR 53 which authorizes the General Assembly to enact utility replacement taxes. Upon approval of the constitutional amendment, the act would repeal existing gross receipts taxes and business license taxes on electricity and natural gas, franchise fee agreements, tax on utility distributable property and certain payments-in-lieu-of-taxes (PILOTs). Revenue lost by political subdivisions due to the repeal of these taxes are replaced by an electricity or natural gas usage tax or charge.

The act also contains backup provisions pertaining to gross receipts taxes and sales taxes on electricity and natural gas service which are similar to SB 612 from 2000 and backup provisions revising taxes on utility distributable property. Distributable property of electric companies in the 2001 tax year shall continue to be assessed and the values distributed by the same method used in that year, even if the property is no longer owned by an electric company. Electric cooperatives shall report the number of transmission and distribution line miles owned by the cooperative in each taxing jurisdiction to the State Tax Commission. New electric generation property placed into service on or after January 1, 2001, and owned by an entity not providing electric distribution service shall be assessed and the value distributed as if it were owned by the electric company authorized to provide distribution service where the new property is located. If located in an area where no electric company is authorized to provide distribution service, the property shall be assessed and the value distributed to taxing jurisdictions based upon the proportion of electric cooperative owned line miles in the jurisdiction.

The backup provisions will become effective August 28, 2000, and will terminate on January 1, 2002, if the constitutional amendment has been adopted.

The proposed legislation would propose a constitutional amendment to repeal the existing utility tax and require a replacement tax to be levied on electricity and natural gas providers based on consumption.

This legislation is not federally mandated, would not duplicate any other program and would require additional capital improvements or rental space.

This proposal could affect Total State Revenues.

SOURCES OF INFORMATION

Department of Revenue

Department of Natural Resources
Office of the State Auditor
Department of Economic Development
Office of Public Counsel
State Tax Commission
Department of Social Services
Department of Elementary and Secondary Education
City of Springfield
Department of Economic Development
Public Service Commission
Office of the Secretary of State

NOT RESPONDING: City of St. Louis, Kansas City Manager

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Director
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